

# **DRAFT 208 Water Quality Management Plan April 2010**

## **IV. Administrative Procedures**

### **A. Conformance Reviews**

The 208 Water Quality Management Plans incorporate planning agency approved facilities plans or engineering reports. Therefore, actions specified in those plans are also specifications of 208 Plans. While facilities plans and engineering reports are incorporated in the 208 Water Quality Management Plan, it should be pointed out that boundaries in Section 201 Wastewater Facilities Plans may not coincide with management agency service area boundaries because 201 planning included geographical areas outside the service area in some situations.

Determination of conformance of wastewater projects with 208 Plans is necessary because DHEC will not issue a construction or discharge permit or make an EPA grant or State Revolving Fund loan for wastewater facilities if it conflicts with the applicable 208 Plan. Section 208(e) of the CWA states, "No permit under section 402 of this Act shall be issued for any point source which is in conflict with a plan approved pursuant to subsection (b) of this section". Furthermore, section 208(d) states "... the administrator shall not make any grant for construction of a publicly owned treatment works under section 201(g)(1) within such area except to such designated agency and for works in conformity with such plan". In addition, state regulations R61-9, "Water Pollution Control Permits", and R61-67, "Standards for Wastewater Facility Construction", require permits not to conflict with the Plan.

### **Projects Requiring Review**

Proposed NPDES permits, land application permits, and/or wastewater construction permit applications, are reviewed for conformance with the Statewide Water Quality Management Plan. Certain exemptions apply to construction projects according to R 61-67.100.E.8.b. Preliminary Engineering Reports (PERs) and facilities plans for projects under the State Revolving Fund (SRF) loan program are also reviewed for conformance. Under R.61-67, all wastewater projects permitted by the Bureau of Water, public and private domestic and industrial, come under the review process as well as subdivisions where community septic tank systems are used as means of wastewater disposal. Septic tank permits serving individual properties (e.g., homes) do not require 208 Plan review.

### **Procedural Steps**

Plan conformance reviews are determined during DHEC's report or permit review process. When the permitting program receives an application for the types of projects described above, a notification is sent to the appropriate department for a 208 Plan conformance review. Based on information contained in the notification, a conclusion is made regarding conformance with this Statewide Plan. The appropriate staff indicates whether or not the project is in conformance (not in conflict) with the Plan and signs and dates the notification. The signed notification is then returned to the permitting program. Note that these procedures are subject to change.

If a proposed project conflicts with the plan and/or a facilities plan approved under the grant or SRF programs, the project will not be in conformance with the Statewide Water

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Quality Management Plan. For example, if a developer applies for a permit to construct and operate a wastewater treatment facility to serve a new subdivision, and the proposed subdivision lies within the service area of a publicly owned treatment provider as shown in the facilities plan, and the public provider is scheduled to serve that particular part of the service area in the immediate or foreseeable future, then the privately owned facility would be in conflict with the facilities plan. Thus, this proposed project would not conform with the 208 Plan. In some circumstances, a new plant could be a temporary facility that will need to connect to a regional system at a later date. Any temporary facilities are noted in section VI. A. of this plan.

DHEC will notify the applicant of the conformance determination, including justification if the project is not in conformance. If the project is in conformance with the Plan, the permit application process may proceed. If it is not, the permit cannot be issued unless the Plan is amended. The applicant may seek to have the Plan amended. Amending the Plan is a form of modification, as described below.

## **B. Plan Updates and Amendments**

Usually the 208 Plan is modified for one of two reasons. One is to comprehensively update the Plan, or a portion of it, to describe changing conditions or needs. Updates usually cover the entire planning area. The other reason is to bring an anticipated project into conformance with the Plan through a plan amendment. An amendment is usually narrower in scope and is intended to change an aspect of the Plan based on a particular wastewater project rather than conditions or policies that affect the entire planning area.

### **Update Requirements**

A Plan update has no specific information requirements, although 40 CFR Part 130.6 discusses several priority elements including implementation measures, municipal and industrial waste treatment needs, management agencies, total maximum daily loads, effluent limitations, basin plans, and nonpoint source management and control.

### **Amendment Requirements**

A Plan amendment request regarding a specific project should address certain specified components to standardize the review process by DHEC including:

- A description of the project and service area
- A rationale
- A cost effectiveness analysis
- An assessment of water quality impacts

Selected alternatives should be the most cost-effective, including consideration of non-monetary factors, and implementable among the alternatives. Therefore, an amendment request should justify a change from the previously selected alternative by showing it to be more cost-effective and that it can be implemented. If the scope of the project is to serve a new area not previously addressed, cost-effectiveness must be addressed as well.

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## Types of Amendments

1. Amendments are considered as **major amendments** when the proposed amendment is for the following types of activities:
  - a. Proposals affecting the service areas of two or more designated management agencies, which do not include appropriate prior agreements reflected in the Plan between those management agencies.
  - b. A new wastewater treatment facility, not including facilities permitted under R.61-56.
  - c. An existing wastewater treatment facility that proposes to increase discharge volume by 50% or greater or by 10 million gallons per day or greater.
  - d. Proposed projects that conflict with the following goals of this 208 Water Quality Management Plan:
    - i. To consolidate wastewater treatment facilities into larger regional systems owned and operated by designated 208 management agencies.
    - ii. To centralize sewer systems within management agency service areas preferably owned by public entities (as opposed to individual on site treatment systems or privately-owned treatment plants built to serve small individual developments) wherever feasible to provide an acceptable method of wastewater treatment and effluent disposal for projected residential, commercial, or industrial growth.
  - e. Proposals that DHEC considers controversial or otherwise needing special attention to include public participation.
2. Amendments are considered as **minor amendments** when the proposed amendment is for the following types of activities and are not considered major:
  - a. An existing wastewater treatment facility that proposes to increase discharge volume by less than 50% and less than 10 million gallons per day.
  - b. Any other proposals DHEC considers minor with regard to water quality effects or stakeholder interest.

## Procedural Steps

The Plan may be amended to generally update the information contained in the Plan or to allow for a deviation based on a request to amend. In some instances, a 208 concurrence may be denied because the requested action (e.g. new operating permit, new construction permit, operating permit renewal) is not in conformance with the current 208 WQM Plan. In such cases the designated management agency or DHEC may seek an amendment to the Plan to accommodate the change. Requests for amendment should be submitted in writing to DHEC and must provide justification. DHEC will amend the Plan when justified.

When the amendment request is for a **major amendment** as defined above, the decision-making process must allow for public input. The public notification process used by DHEC in its wastewater permitting programs may be used to notify interested parties of changes and allow for comment during the permit public notice period.

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If judged necessary, a public meeting on the amendment request may be conducted prior to final permit issuance and may coincide with any DHEC public hearing for a permit. If warranted, (e.g. if no permit is being issued) a separate public meeting may be conducted to consider the amendment request. The public will be notified at least thirty days prior to such a meeting. Oral and written comments will be accepted at the meeting and the record may remain open afterwards for written comments. Subsequent to the comment period, staff will prepare a responsiveness summary that addresses any comments and concerns, if warranted.

For **minor amendments**, DHEC staff will review and make necessary changes to the plan. The minor amendments will not require public notifications.

Based on the technical review of the amendment request, and public comments on major amendments, DHEC may choose to amend the Plan. All amendments, major and minor, will be kept on file and described in future document updates when they are prepared. If DHEC decides not to amend the Plan, the requestor will be notified in writing and a justification provided. Both comprehensive updates and major amendments are also sent to EPA for approval.